

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 110

5 By: Senator R. Thompson
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For An Act To Be Entitled

8 AN ACT TO CLARIFY THE MEANING OF MANIFEST INJUSTICE
9 AS IT APPLIES TO DECISIONS OF THE ARKANSAS TEACHER
10 RETIREMENT SYSTEM IN CORRECTING ERRORS; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO CLARIFY THE MEANING OF MANIFEST
15 INJUSTICE AS IT APPLIES TO DECISIONS OF
16 THE ARKANSAS TEACHER RETIREMENT SYSTEM IN
17 CORRECTING ERRORS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 24-7-202 is amended to add an additional
24 subdivision to read as follows:

25 (40)(A) "Manifest injustice" means an obvious unfairness that
26 has a direct and observable unconscionable effect that will occur as a result
27 of a technical error or error of judgment, when the error made by the system,
28 a benefit participant, or employer, and the disparity of outcome to the
29 parties, when taken together and supported by clear and convincing evidence,
30 show a great harm to the integrity of the system as a whole, the benefit
31 participant, or an employer, unless the system is afforded the discretion to
32 resolve the matter in a fair manner.

33 (B) In determining manifest injustice the system may
34 consider:

35 (i) The degree of fault of the system, benefit
36 participant, or employer;



1 (ii) An ambiguity in the interpretation of the
2 circumstances, rule, or law;

3 (iii) The cost to the system of correcting the error
4 that is far outweighed by the benefit afforded to the system, benefit
5 participant, or employer;

6 (iv) Whether or not an expedited decision is in the
7 public interest;

8 (v) The fundamental fairness of a remedy in a
9 particular situation; and

10 (vi) Whether or not the status quo would result in
11 an unconscionable outcome.

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13 SECTION 2. Arkansas Code § 24-7-205 is amended to add an additional
14 subsection to read as follows:

15 (e) The board or its designee may waive or modify the impact of a
16 rule, provision, or law that does not violate federal law or jeopardize the
17 tax-qualified status of the system to correct or prevent a manifest injustice
18 that would affect the system, benefit participant, or employer in a
19 particular instance.